

Senate Bill No. 1574

CHAPTER 535

An act to add Section 12805.4 to the Government Code, relating to the Sacramento-San Joaquin Delta.

[Approved by Governor September 28, 2006. Filed with
Secretary of State September 28, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1574, Kuehl. Sacramento-San Joaquin Delta.

Existing law establishes the Resources Agency in state government and grants to that agency various supervisory powers over the state's resources. Existing law requires the Department of Water Resources and the Department of Fish and Game to identify, evaluate, and comparatively rate the principal options available to implement certain objectives that relate to the Sacramento-San Joaquin Delta or the Sacramento and San Joaquin river systems. Existing law requires the departments to jointly report to the Legislature and the Governor the results of their evaluations and comparative ratings, as specified, no later than January 1, 2008.

This bill additionally would require the Secretary of the Resources Agency to convene a committee to develop and submit to the Governor and the Legislature, on or before December 31, 2008, a Strategic Vision for a Sustainable Sacramento-San Joaquin Delta with specified components. The bill would authorize the committee, its members, and state agencies represented on the committee to enter into specified contracts.

The people of the State of California do enact as follows:

SECTION 1. Section 12805.4 is added to the Government Code, to read:

12805.4. (a) The Secretary of the Resources Agency shall convene a committee to develop and submit to the Governor and the Legislature, on or before December 31, 2008, a Strategic Vision for a Sustainable Sacramento-San Joaquin Delta.

(b) The committee shall include all of the following:

- (1) The Secretary of the Resources Agency.
- (2) The Secretary of the Business, Transportation and Housing Agency.
- (3) The Secretary for Environmental Protection.
- (4) The Secretary of Food and Agriculture.
- (5) The President of the Public Utilities Commission.

(c) The strategic vision shall address all of the following:

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(1) Sustainable ecosystem functions, including aquatic and terrestrial flora and fauna.

(2) Sustainable land use and land use patterns.

(3) Sustainable transportation uses, including streets, roads and highways, and waterborne transportation.

(4) Sustainable utility uses, including aqueducts, pipelines, and power transmission corridors.

(5) Sustainable water supply uses.

(6) Sustainable recreation uses, including current and future recreational and tourism uses.

(7) Sustainable flood management strategies.

(8) Other aspects of sustainability deemed desirable by the committee.

(d) The committee shall seek input from elected officials, governmental agencies, interested parties, educational institutions, and affected local communities. The Governor or the committee may appoint a “blue ribbon” or citizen commission, advisory committee, task force, or any other group or groups that the Governor or the committee deems necessary or desirable to assist in carrying out this section.

(e) For the purposes of carrying out this section, the committee may also seek input from other policy and resource leaders.

(f) All relevant state agencies, at the request of the committee, shall make available staff and resources to assist in the preparation of the strategic vision.

(g) (1) The committee, its members, and state agencies represented on the committee may contract for consultants to assist in the preparation of the strategic vision.

(2) Contracts entered into pursuant to paragraph (1) shall terminate no later than December 31, 2008.

(3) Contracts entered into pursuant to paragraph (1) are exempt from Part 2 (commencing with Section 10100) of Division 2 of the Public Contract Code.

Assembly Bill No. 1200

CHAPTER 573

An act to add Sections 139.2 and 139.4 to the Water Code, relating to water.

[Approved by Governor October 6, 2005. Filed with
Secretary of State October 6, 2005.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1200, Laird. Sacramento-San Joaquin Delta.

Existing law, the California Bay-Delta Authority Act, requires the California Bay-Delta Authority and certain implementing agencies to carry out programs that address the goals and objectives of the CALFED Bay-Delta Program Record of Decision, dated August 28, 2000, on behalf of the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.

This bill would require the Department of Water Resources to evaluate the potential impacts on water supplies derived from the Sacramento-San Joaquin Delta resulting from subsidence, earthquakes, floods, changes in precipitation, temperature, and ocean levels, and a combination of those impacts. The bill would require the Department of Water Resources and the Department of Fish and Game to identify, evaluate, and comparatively rate the principal options available to implement certain objectives that relate to the delta or the Sacramento and San Joaquin river systems. The bill would require the departments to jointly report to the Legislature and the Governor the results of their evaluations and comparative ratings, as specified, no later than January 1, 2008.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Substantial water supplies are derived from the Sacramento-San Joaquin Delta for the greater Silicon Valley area, Alameda County, eastern Contra Costa County, Napa County, Solano County, the San Joaquin Valley, and southern California.

(b) In a document entitled "Seismic Stability of Delta Levees," the Department of Water Resources estimated that a single 100-year earthquake would result in three to 10 delta levee breaks and that a single 1,000-year earthquake would result in 18 to 82 delta levee breaks.

(c) A report to the California Bay-Delta Authority Independent Science Board estimated that sea-level rise caused by climate change, continuing subsidence of delta lands, floods, and earthquakes have a 64 percent probability of resulting in catastrophic flooding of delta islands over the next 50 years.

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(d) The state's economy, and the governmental programs that are dependent on a healthy economy and a healthy environment, cannot afford a catastrophic disruption of the water supplies derived from the delta.

SEC. 2. Section 139.2 is added to the Water Code, to read:

139.2. The department shall evaluate the potential impacts on water supplies derived from the Sacramento-San Joaquin Delta based on 50-, 100-, and 200-year projections for each of the following possible impacts on the delta:

- (1) Subsidence.
- (2) Earthquakes.
- (3) Floods.
- (4) Changes in precipitation, temperature, and ocean levels.
- (5) A combination of the impacts specified in paragraphs (1) to (4), inclusive.

SEC. 3. Section 139.4 is added to the Water Code, to read:

139.4. (a) The department and the Department of Fish and Game shall determine the principal options for the delta.

(b) The department shall evaluate and comparatively rate each option determined in subdivision (a) for its ability to do the following:

- (1) Prevent the disruption of water supplies derived from the Sacramento-San Joaquin Delta.
- (2) Improve the quality of drinking water supplies derived from the delta.
- (3) Reduce the amount of salts contained in delta water and delivered to, and often retained in, our agricultural areas.
- (4) Maintain delta water quality for delta users.
- (5) Assist in preserving delta lands.
- (6) Protect water rights of the "area of origin" and protect the environments of the Sacramento-San Joaquin river systems.
- (7) Protect highways, utility facilities, and other infrastructure located within the delta.
- (8) Preserve, protect, and improve delta levees.

(c) The Department of Fish and Game shall evaluate and comparatively rate each option determined in subdivision (a) for its ability to restore salmon and other fisheries that use the San Francisco Bay/Sacramento-San Joaquin Delta Estuary.

(d) On or before January 1, 2008, the department and the Department of Fish and Game shall jointly report to the Legislature and Governor, in writing, with regard to the results of the evaluation required by Section 139.2 and the comparative ratings required by subdivisions (b) and (c).

Excerpted from Assembly Bill 1803

Chapter 2.5. Sacramento-San Joaquin Delta Strategic Plan

79473. The Secretary of Resources, in collaboration with the Secretary of Business, Transportation and Housing, shall develop a strategic plan to achieve a sustainable Sacramento-San Joaquin Delta. The plan shall include all of the following:

- (a) A description, characterization, or definition of a sustainably managed delta, including the delta's multiple resources and uses for each of the following:
 - (1) Ecosystem functions, including aquatic and terrestrial flora and fauna.
 - (2) Land use and land use patterns.
 - (3) Transportation uses, including streets, roads and highways, and waterborne transportation.
 - (4) Utility uses, including aqueducts, pipelines, and power transmission corridors.
 - (5) Water supply uses.
 - (6) Recreation uses, including current and future recreational and tourism uses.
 - (7) Other aspects of sustainability determined to be desirable by the Secretary of the Resources Agency or the Secretary of Business, Transportation and Housing.
- (b) Measurable goals and objectives for achieving a sustainably managed delta.
- (c) A list of necessary actions to achieve a sustainably managed delta.
- (d) Recommendations for institutional changes, including creating new institutions, necessary for achieving a sustainably managed delta. The recommendations may include a discussion of any of the following:
 - (1) Oversight authorities.
 - (2) Implementation authorities.
 - (3) Land use authorities.
- (e) A strategic financing plan, including provisions for delta beneficiaries to pay their share for the benefits that they receive.
- (f) Contingency plans addressing all of the following:
 - (1) Response plans for local impacts, such as a levee failure on a single island.
 - (2) Response plans for widespread catastrophic losses, such as losses that may occur as a result of a significant seismic event.
 - (3) Adaptive management.
 - (4) The likely impacts of global warming, climate change, and sea-level rise.

Assembly Bill No. 797

CHAPTER 547

An act to add Section 51256.3 to the Government Code, and to amend Sections 29735, 29763, 29770, and 29771 of the Public Resources Code, relating to natural resources.

[Approved by Governor September 28, 2006. Filed with
Secretary of State September 28, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 797, Wolk. Sacramento-San Joaquin Delta.

(1) Existing law authorizes a city or county, upon petition by a landowner, to enter into an agreement with the landowner to rescind a contract, in accordance with specified procedures, in order to place other land within that city, the county, or the county where the contract is rescinded under an agricultural conservation easement.

The bill would, for the purposes of facilitating long-term agricultural land conservation in the Sacramento-San Joaquin Delta, authorize an agricultural conservation easement located within the primary or secondary zone of the delta to be related to contract rescissions in any other portion of the secondary zone without respect to county boundary limitations, as specified.

(2) Existing law creates the Delta Protection Commission consisting of 19 members and specifies that the membership includes various individuals. Existing law provides that a person aggrieved by an action taken by a local government or other local agency in implementing a resource management plan may file an appeal to the commission.

This bill would increase the membership of the commission to 23 members, and would additionally include the public member of the California Bay-Delta Authority who represents the delta region, and 3 public members who are delta residents or delta landowners and who represent various interests in the delta region, as specified, who are appointed by the Governor.

The bill would revise provisions with respect to local government or agency actions and appeals from these actions.

The people of the State of California do enact as follows:

SECTION 1. Section 51256.3 is added to the Government Code, to read:

51256.3. For the purposes of facilitating long-term agricultural land conservation in the Sacramento-San Joaquin Delta, an agricultural

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conservation easement located within the primary or secondary zone of the delta, as defined in Sections 29728 and 29731 of the Public Resources Code, may be related to contract rescissions in any other portion of the secondary zone without respect to county boundary limitations contained in an agricultural conservation easement agreement pursuant to Section 51256.

SEC. 2. Section 29735 of the Public Resources Code is amended to read:

29735. There is hereby created the Delta Protection Commission consisting of 23 members as follows:

(a) One member of the board of supervisors of each of the five counties within the delta whose supervisorial district is within the primary zone shall be appointed by the board of supervisors of the county.

(b) Three elected city council members shall be selected and appointed by city selection committees, from regional and area councils of government, one in each of the following areas:

(1) One from the north delta, consisting of the Counties of Yolo and Sacramento.

(2) One from the south delta, consisting of the County of San Joaquin.

(3) One from the west delta, consisting of the Counties of Contra Costa and Solano.

(c) (1) One member each from the board of directors of five different reclamation districts which are located within the primary zone who are residents of the delta, and who are elected by the trustees of reclamations districts within the following areas:

(A) Two members from the area of the North Delta Water Agency as described in Section 9.1 of the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973), provided at least one member is also a member of the Delta Citizens Municipal Advisory Council.

(B) One member from the west delta consisting of the area of Contra Costa County within the delta.

(C) One member from the area of the Central Delta Water Agency as described in Section 9.1 of the Central Delta Water Agency Act (Chapter 1133 of the Statutes of 1973).

(D) One member from the area of the South Delta Water Agency as described in Section 9.1 of the South Delta Water Agency Act (Chapter 1089 of the Statutes of 1973).

(2) Each reclamation district may nominate one director to be a member. The member from an area shall be selected from among the nominees by a majority vote of the reclamation districts in that area. For purposes of this section, each reclamation district shall have one vote. The north delta area shall conduct separate votes to select each of its two members.

(d) The Director of Parks and Recreation, or the director's sole designee.

(e) The Director of Fish and Game, or the director's sole designee.

(f) The Secretary of Food and Agriculture, or the secretary's sole designee.

(g) The executive officer of the State Lands Commission, or the executive officer's sole designee.

(h) The Director of Boating and Waterways, or the director's sole designee.

(i) The Director of Water Resources, or the director's sole designee.

(j) The public member of the California Bay-Delta Authority who represents the delta region.

(k) The Governor shall appoint three members from the general public who are delta residents or delta landowners, as follows:

(1) One member shall represent the interests of production agriculture with a background in promoting the agricultural viability of delta farming.

(2) One member shall represent the interests of conservation of wildlife and habitat resources of the delta region and ecosystem.

(3) One member shall represent the interests of outdoor recreational opportunities, including, but not limited to, hunting and fishing.

SEC. 3. Section 29763 of the Public Resources Code is amended to read:

29763. Within 180 days from the date of the adoption of the resource management plan or any amendments, changes, or updates, to the resource management plan by the commission, all local governments shall submit to the commission proposed amendments that will cause their general plans to be consistent with the criteria in Section 29763.5 with respect to land located within the primary zone.

SEC. 4. Section 29770 of the Public Resources Code is amended to read:

29770. (a) Any person who is aggrieved by any action taken by a local government or other local agency in implementing the resource management plan, or otherwise taken pursuant to this division, may file an appeal with the commission. The ground for an appeal and the commission consideration of an appeal shall be that an action, as to land located exclusively within the primary zone, is inconsistent with the resource management plan, the approved portions of local government general plans that implement the resource management plan, or this division. The appeal shall be heard by the commission within 60 days from the date of the filing of the appeal, unless the commission, either itself or by delegation to the executive director, determines that the issue raised on appeal is not within the commission's jurisdiction or does not raise an appealable issue.

(b) In the absence of an appeal by an aggrieved person, the commission may decide by majority vote to review on appeal any action taken by a local government or other local agency in implementing the resource management plan, or otherwise taken pursuant to this division, for land located exclusively within the primary zone, if the commission believes the action may be inconsistent with the resource management plan, or this division.

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(c) The commission shall, by regulation, adopt administrative procedures governing those appeals.

(d) The commission may comment on projects within the secondary zone that impact the primary zone.

SEC. 5. Section 29771 of the Public Resources Code is amended to read:

29771. After a hearing on an appealed action, the commission shall either deny the appeal or remand the matter to the local government or local agency for reconsideration, after making specific findings. Upon remand, the local government or local agency shall modify the appealed action and resubmit the matter for review to the commission. A proposed action appealed pursuant to this section shall not be effective until the commission has adopted written findings, based on substantial evidence in the record, that the action is consistent with the resource management plan, the approved portions of local government general plans that implement the resource management plan, and this division.

Assembly Bill No. 798

CHAPTER 548

An act to amend Sections 12300, 12301, 12986, and 12987.5 of the Water Code, relating to water, and declaring the urgency thereof, to the effect immediately.

[Approved by Governor September 28, 2006. Filed with
Secretary of State September 28, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 798, Wolk. Delta levee maintenance.

(1) Existing law establishes the Delta Flood Protection Fund in the State Treasury and states the intent of the Legislature that \$12,000,000 be annually appropriated from the fund each year through fiscal year 1998–99, for local assistance under the delta levee maintenance subventions program and for special delta flood protection projects, as specified. Existing law abolishes the Delta Flood Protection Fund on July 1, 2008.

This bill would additionally state the intent of the Legislature to appropriate from the fund additional moneys as they may become available from proceeds from the sale of bonds issued by the state. The bill would abolish the Delta Flood Protection Fund on July 1, 2010.

(2) Existing law establishes a delta levee maintenance program pursuant to which a local agency may request reimbursement for costs incurred in connection with the maintenance or improvement of project or nonproject levees in the Sacramento-San Joaquin Delta. Existing law declares legislative intent to reimburse eligible local agencies under this program, until July 1, 2006, in an amount not to exceed 75% of those costs that are incurred in excess of \$1,000 per mile of levee, and on and after that date, in an amount not to exceed 50% of those described costs.

This bill, instead, would declare legislative intent to reimburse up to 75% of those described costs until July 1, 2010, and on and after that date, to reimburse up to 50% of those described costs. The bill would require the department, upon completion of a specified evaluation, to recommend to the Legislature and the Governor by January 1, 2008, funding priorities under the program.

(3) Existing law, until July 1, 2006, authorizes the board to provide funds to an eligible local agency under this program in the form of an advance in an amount that does not exceed 75% of the estimated state share.

This bill would extend the operation of that provision to July 1, 2010.

(4) The bill would declare that it is to take effect immediately as an urgency statute.

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The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) The Sacramento-San Joaquin Delta encompasses many invaluable and unique resources that are of major statewide importance, including water supply, agricultural production, recreation, fisheries, and wildlife habitat.

(b) The key to preserving the delta's physical characteristics has been the system of levees that defines the waterways and adjacent lands. An urgent need for a higher degree of levee maintenance and rehabilitation throughout the delta led the Legislature to provide state technical and financial assistance for levee maintenance and rehabilitation through a program of reimbursement to local agencies for a percentage of costs incurred for levee maintenance and improvement.

(c) A major seismic event in the delta would likely cause significant damage to levees and key transportation and utility infrastructure. The combination of the continuing subsidence of delta lands, a rise in sea level, and significant storm runoff events create a high probability of catastrophic flooding of delta islands. The state's economy and millions of Californians cannot afford a lengthy disruption of water supplies derived from the delta.

(d) Although the delta is an area of major statewide importance and the preservation of the delta's physical characteristics continues to remain a priority, the Legislature reaffirms its prior declaration that it may not be economically justifiable to maintain all delta islands.

(e) The Department of Water Resources and the Department of Fish and Game have been directed to identify, evaluate, and comparatively rate options for maintaining significant resource values in the delta. The two departments are required to jointly report to the Legislature and the Governor the results of their evaluations and options by January 1, 2008.

(f) It is necessary and desirable to extend the existing delta levee maintenance program until the Legislature and Governor receive and act upon the report.

SEC. 2. Section 12300 of the Water Code is amended to read:

12300. (a) The Delta Flood Protection Fund is hereby created in the State Treasury. There shall be deposited in the fund all moneys appropriated to the fund, including authorized proceeds from the sale of bonds, and all income derived from the investment of moneys that are in the fund.

(b) It is the intent of the Legislature to appropriate, in accordance with Section 12938, twelve million dollars (\$12,000,000) each year through fiscal year 1998–99 to the Delta Flood Protection Fund from moneys deposited in the California Water Fund pursuant to subdivision (b) of Section 6217 of the Public Resources Code. It is further the intent of the Legislature to appropriate annually moneys in the Delta Flood Protection Fund to the department for expenditure and allocation, without regard to fiscal years, in the following amounts and for the following purposes:

(1) Six million dollars (\$6,000,000) annually for local assistance under the delta levee maintenance subventions program pursuant to Part 9 (commencing with Section 12980), and for the administration thereof.

(2) Six million dollars (\$6,000,000) annually for special delta flood protection projects under Chapter 2 (commencing with Section 12310) and subsidence studies and monitoring, and the administration thereof. These funds shall only be allocated for projects on Bethel, Bradford, Holland, Hotchkiss, Jersey, Sherman, Twitchell, and Webb Islands, and at other locations in the delta and for the Towns of Thornton and Walnut Grove and for approximately 12 miles of levees on islands bordering the Northern Suisun Bay from Van Sickle Island westerly to Montezuma Slough.

(3) Additional moneys as they may become available from proceeds from the sale of bonds issued by the state.

(c) Any moneys unexpended at the end of a fiscal year shall revert to the Delta Flood Protection Fund and shall be available for appropriation by the Legislature for the purposes specified in subdivision (b).

(d) It is the intent of the Legislature that, to the extent consistent with Sections 12314, 12987, and 78543, projects funded under subdivision (b) shall be consistent with the delta ecosystem restoration strategy of the CALFED Bay-Delta Program.

SEC. 3. Section 12301 of the Water Code is amended to read:

12301. The Delta Flood Protection Fund is hereby abolished on July 1, 2010, and all unencumbered moneys in the fund are transferred to the General Fund.

SEC. 4. Section 12986 of the Water Code, as amended by Section 13 of Chapter 601 of the Statutes of 1996, is amended to read:

12986. (a) It is the intention of the Legislature to reimburse an eligible local agency pursuant to this part for costs incurred in any year for the maintenance or improvement of project or nonproject levees as follows:

(1) No costs incurred shall be reimbursed if the entire cost incurred per mile of project or nonproject levee is one thousand dollars (\$1,000) or less.

(2) Not more than 75 percent of any costs incurred in excess of one thousand dollars (\$1,000) per mile of project or nonproject levee shall be reimbursed.

(3) (A) As part of the project plans approved by the board, the department shall require the local agency or an independent financial consultant to provide information regarding the agency's ability to pay for the cost of levee maintenance or improvement. Based on that information, the department may require the local agency or an independent financial consultant to prepare a comprehensive study on the agency's ability to pay.

(B) The information or comprehensive study of the agency's ability to pay shall be the basis for determining the maximum allowable reimbursement eligible under this part. Nothing in this paragraph shall be interpreted to increase the maximum reimbursement allowed under paragraph (2).

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(4) Reimbursements made to the local agency in excess of the maximum allowable reimbursement shall be returned to the department.

(5) The department may recover, retroactively, excess reimbursements paid to the local agency from any time after January 1, 1997, based on an updated study of the agency's ability to pay.

(6) All final costs allocated or reimbursed under a plan shall be approved by the reclamation board for project and nonproject levee work.

(7) Costs incurred pursuant to this part that are eligible for reimbursement include construction costs and associated engineering services, financial or economic analyses, environmental costs, mitigation costs, and habitat improvement costs.

(b) Upon completion of its evaluation pursuant to Sections 139.2 and 139.4, by January 1, 2008, the department shall recommend to the Legislature and the Governor priorities for funding under this section.

(c) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 5. Section 12986 of the Water Code, as amended by Section 14 of Chapter 601 of the Statutes of 1996, is amended to read:

12986. (a) It is the intention of the Legislature to reimburse from the General Fund an eligible local agency pursuant to this part for costs incurred in any year for the maintenance or improvement of project or nonproject levees as follows:

(1) No costs incurred shall be reimbursed if the entire cost incurred per mile of levee is one thousand dollars (\$1,000) or less.

(2) Fifty percent of any costs incurred in excess of one thousand dollars (\$1,000) per mile of levee shall be reimbursed.

(3) The maximum total reimbursement from the General Fund shall not exceed two million dollars (\$2,000,000) annually.

(b) This section shall become operative on July 1, 2010.

SEC. 6. Section 12987.5 of the Water Code is amended to read:

12987.5. (a) In an agreement entered into under Section 12987, the board may provide for an advance to the applicant in an amount not to exceed 75 percent of the estimated state share. The agreement shall provide that no advance shall be made until the applicant has incurred costs averaging one thousand dollars (\$1,000) per mile of levee.

(b) Advances made under subdivision (a) shall be subtracted from amounts to be reimbursed after the work has been performed. If the department finds that work has not been satisfactorily performed or where advances made actually exceed reimbursable costs, the local agency shall promptly remit to the state all amounts advanced in excess of reimbursable costs. If advances are sought, the board may require a bond to be posted to ensure the faithful performance of the work set forth in the agreement.

(c) This section shall become inoperative on July 1, 2010, and, as of January 1, 2011, is repealed, unless a later enacted statute, that becomes

operative on or before January 1, 2011, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to facilitate the performance of necessary levee maintenance, as soon as possible, it is necessary that this act take effect immediately.

Assembly Bill No. 1245

CHAPTER 553

An act to amend Section 6523 of the Government Code, relating to local agencies.

[Approved by Governor September 28, 2006. Filed with
Secretary of State September 28, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1245, Wolk. West Sacramento Area Flood Control Agency.

Existing law authorizes a joint powers entity created pursuant to an agreement entered into by the City of West Sacramento and specified reclamation districts to exercise the authority granted to reclamation districts under specified provisions of law.

This bill additionally would grant the joint powers entity the authority to accomplish the purposes and projects necessary to achieve and maintain at least a 200-year level of flood protection and, prior to January 1, 2009, to issue debt to finance those purposes and projects and thereafter continue to levy special assessments to repay that indebtedness, as specified.

The people of the State of California do enact as follows:

SECTION 1. Section 6523 of the Government Code is amended to read:

6523. (a) The West Sacramento Area Flood Control Agency, a joint powers entity that is created pursuant to an agreement entered into, in accordance with this article, by the City of West Sacramento, Reclamation District No. 537, and Reclamation District No. 900 is granted the authority to accomplish the purposes and projects necessary to achieve and maintain at least a 200-year level of flood protection, and may exercise the authority granted to reclamation districts under Part 7 (commencing with Section 51200) and Part 8 (commencing with Section 52100) of Division 15 of the Water Code for the purposes of Sections 12670.2, 12670.3, and 12670.4 of the Water Code.

(b) Prior to January 1, 2009, the agency may create indebtedness and thereafter continue to levy special assessments to repay that indebtedness for the purposes described in subdivision (a), pursuant to any of the following provisions:

(1) The Improvement Act of 1911 (Division 7 (commencing with Section 5000) of the Streets and Highways Code).

(2) The Municipal Improvement Act of 1913 (Division 12 (commencing with Section 1000) of the Streets and Highways Code).

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SEC. 2. It is the intent of the Legislature in amending Section 6523 of the Government Code pursuant to Section 1 of this act, that the West Sacramento Area Flood Control Agency consider and evaluate other governance structures.

SEC. 3. Due to the unique circumstances with regard to the high degree of intergovernmental cooperation required among federal, state, and local agencies for flood control programs and projects financed by the West Sacramento Area Flood Control Agency, the Legislature hereby finds and declares that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution. Therefore, the special legislation contained in Section 1 of this act is necessarily applicable only to the West Sacramento Area Flood Control Agency.

Assembly Bill No. 1881

CHAPTER 559

An act to add Section 1353.8 to the Civil Code, to repeal and add Article 10.8 (commencing with Section 65591) of Chapter 3 of Division 1 of Title 7 of the Government Code, to add Section 25401.9 to the Public Resources Code, and to add Article 4.5 (commencing with Section 535) to Chapter 8 of Division 1 of the Water Code, relating to water conservation.

[Approved by Governor September 28, 2006. Filed with
Secretary of State September 28, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1881, Laird. Water conservation.

(1) Existing law, the Davis-Sterling Common Interest Development Act, defines and regulates common interest developments, which include community apartment projects, condominium projects, planned developments, and stock cooperatives.

This bill would provide that the architectural guidelines of a common interest development shall not prohibit or include conditions that have the effect of prohibiting the use of low water-using plants as a group.

(2) The Water Conservation in Landscaping Act requires the Department of Water Resources to appoint an advisory task force to work with the department to draft a model local water efficient landscape ordinance that local agencies may adopt, requires the task force to submit the ordinance to the department on or before May 1, 1991, and requires the task force to cease to exist on the date the department adopts the model ordinance or January 1, 1992, whichever occurs first. The act requires the department, not later than January 1, 1992, to adopt a model local water efficient landscape ordinance which each local agency may adopt. The act makes the model local water efficient landscape ordinance adopted by the department applicable within the jurisdiction of a local agency if that local agency, by January 1, 1993, has not adopted a water efficient landscape ordinance or has not adopted certain findings that the adoption of the ordinance is unnecessary.

This bill would specify that the provision making the model ordinance applicable to a local agency on and after January 1, 1993, does not apply to chartered cities. The bill would require the department, to the extent funds are appropriated, not later than January 1, 2009, by regulation, to update the model ordinance in accordance with specified requirements. The bill would require the department to prepare and submit to the Legislature a prescribed report before the adoption of the updated model ordinance. The bill would require a local agency, not later than January 1, 2010, to adopt the updated model ordinance or other water efficient

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landscape ordinance that is at least as effective in conserving water as the updated model ordinance. The bill would make the updated model ordinance applicable within the jurisdiction of a local agency, including a chartered city, if, by January 1, 2010, the local agency has not adopted its own water efficient landscape ordinance or the updated model ordinance. The bill would require each local agency, not later than January 31, 2010, to notify the department as to whether the local agency is subject to the department's updated model ordinance and, if not, to submit to the department a copy of the water efficient landscape ordinance adopted by the local agency, among other documents. The bill would require the department, to the extent funds are appropriated, not later than January 31, 2011, to prepare and submit a report to the Legislature relating to the status of water efficient landscape ordinances adopted by local agencies.

By imposing requirements on local agencies in connection with the adoption of water efficient landscape ordinances, the bill would impose a state-mandated local program.

(3) Existing law requires the State Energy Resources Conservation and Development Commission (Energy Commission), after one or more public hearings, to take specified action to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy. Existing law requires the Energy Commission, by January 1, 2004, to amend specified regulations to require that residential clothes washers manufactured on or after January 1, 2007, be at least as water efficient as commercial clothes washers, and to take certain other related action.

This bill would require the Energy Commission, in consultation with the department, to adopt, to the extent funds are available, by regulation performance standards and labeling requirements for landscape irrigation equipment, including irrigation controllers, moisture sensors, emission devices, and valves to reduce the wasteful, uneconomic, inefficient, or unnecessary consumption of energy or water. The bill would require the Energy Commission to adopt those requirements for landscape irrigation controllers and moisture sensors by January 1, 2010, and, on and after January 1, 2012, would prohibit the sale or installation of an irrigation controller or moisture sensor for landscape use unless the controller or sensor meets those adopted requirements. The bill would require the Energy Commission, on or before January 1, 2010, to prepare and submit to the Legislature a report that sets forth a proposed schedule for adopting performance standards and labeling requirements for emission devices and valves.

(4) Existing law generally requires an urban water supplier to install water meters on all municipal and industrial service connections located within its service area on or before January 1, 2025.

This bill would require a water purveyor as defined, to require as a condition of new retail water service on and after January 1, 2008, the installation of separate water meters to measure the volume of water used exclusively for landscape purposes. The bill would make this requirement applicable to specified service connections.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 1353.8 is added to the Civil Code, to read:

1353.8. The architectural guidelines of a common interest development shall not prohibit or include conditions that have the effect of prohibiting the use of low water-using plants as a group.

SEC. 2. Article 10.8 (commencing with Section 65591) of Chapter 3 of Division 1 of Title 7 of the Government Code is repealed.

SEC. 3. Article 10.8 (commencing with Section 65591) is added to Chapter 3 of Division 1 of Title 7 of the Government Code, to read:

Article 10.8. Water Conservation in Landscaping

65591. This article shall be known and may be cited as the Water Conservation in Landscaping Act.

65592. Unless the context requires otherwise, the following definitions govern the construction of this article:

- (a) "Department" means the Department of Water Resources.
- (b) "Local agency" means any city, county, or city and county, including a charter city or charter county.
- (c) "Water efficient landscape ordinance" means an ordinance or resolution adopted by a local agency, or prepared by the department, to address the efficient use of water in landscaping.

65593. The Legislature finds and declares all of the following:

- (a) The waters of the state are of limited supply and are subject to ever increasing demands.
- (b) The continuation of California's economic prosperity is dependent on adequate supplies of water being available for future uses.
- (c) It is the policy of the state to promote the conservation and efficient use of water and to prevent the waste of this valuable resource.
- (d) Landscapes are essential to the quality of life in California by providing areas for active and passive recreation and as an enhancement to the environment by cleaning air and water, preventing erosion, offering fire protection, and replacing ecosystems lost to development.
- (e) Landscape design, installation, maintenance, and management can and should be water efficient.
- (f) Section 2 of Article X of the California Constitution specifies that the right to use water is limited to the amount reasonably required for the

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beneficial use to be served and the right does not and shall not extend to waste or unreasonable use or unreasonable method of use.

(g) (1) The Legislature, pursuant to Chapter 682 of the Statutes of 2004, requested the California Urban Water Conservation Council to convene a stakeholders work group to develop recommendations for improving the efficiency of water use in urban irrigated landscapes.

(2) The work group report includes a recommendation to update the model water efficient landscape ordinance adopted by the department pursuant to Chapter 1145 of the Statutes of 1990.

(3) It is the intent of the Legislature that the department promote the use of this updated model ordinance.

(h) Notwithstanding Article 13 (commencing with Section 65700), this article addresses a matter that is of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Accordingly, it is the intent of the Legislature that this article, except as provided in Section 65594, apply to all cities and counties, including charter cities and charter counties.

65594. (a) Except as provided in Section 65595, if by January 1, 1993, a local agency did not adopt a water efficient landscape ordinance and did not adopt findings based on climatic, geological, or topographical conditions, or water availability that state that a water efficient landscape ordinance is unnecessary, the model water efficient landscape ordinance adopted by the department pursuant to Chapter 1145 of the Statutes of 1990 shall apply within the jurisdiction of the local agency as of that date, shall be enforced by the local agency, and shall have the same force and effect as if adopted by the local agency.

(b) Notwithstanding subdivision (b) of Section 65592, subdivision (a) does not apply to chartered cities.

(c) This section shall apply only until the department updates the model ordinance.

65595. (a) (1) To the extent funds are appropriated, not later than January 1, 2009, by regulation, the department shall update the model water efficient landscape ordinance adopted pursuant to Chapter 1145 of the Statutes of 1990, after holding one or more public hearings. The updated model ordinance shall be based on the recommendations set forth in the report prepared pursuant to Chapter 682 of the Statutes of 2004 and shall meet the requirements of Section 65596.

(2) Before the adoption of the updated model ordinance pursuant to paragraph (1), the department shall prepare and submit to the Legislature a report relating to both of the following:

(A) The extent to which local agencies have complied with the model water efficient landscape ordinance adopted pursuant to Chapter 1145 of the Statutes of 1990.

(B) The department's recommendations regarding the landscape water budget component of the updated model ordinance described in subdivision (b) of Section 65596.

(b) Not later than January 31, 2009, the department shall distribute the updated model ordinance adopted pursuant to subdivision (a) to all local agencies and other interested parties.

(c) On or before January 1, 2010, a local agency shall adopt one of the following:

(1) A water efficient landscape ordinance that is, based on evidence in the record, at least as effective in conserving water as the updated model ordinance adopted by the department pursuant to subdivision (a).

(2) The updated model ordinance described in paragraph (1).

(d) If the local agency has not adopted, on or before January 1, 2010, a water efficient landscape ordinance pursuant to subdivision (c), the updated model ordinance adopted by the department pursuant to subdivision (a) shall apply within the jurisdiction of the local agency as of that date, shall be enforced by the local agency, and shall have the same force and effect as if adopted by the local agency.

(e) Nothing in this article shall be construed to require the local agency's water efficient landscape ordinance to duplicate, or to conflict with, a water efficiency program or measure implemented by a public water system, as defined in Section 116275 of the Health and Safety Code, within the jurisdictional boundaries of the local agency.

65596. The updated model ordinance adopted pursuant to Section 65595 shall do all the following in order to reduce water use:

(a) Include provisions for water conservation and the appropriate use and groupings of plants that are well-adapted to particular sites and to particular climatic, soil, or topographic conditions. The model ordinance shall not prohibit or require specific plant species, but it may include conditions for the use of plant species or encourage water conserving plants. However, the model ordinance shall not include conditions that have the effect of prohibiting or requiring specific plant species.

(b) Include a landscape water budget component that establishes the maximum amount of water to be applied through the irrigation system, based on climate, landscape size, irrigation efficiency, and plant needs.

(c) Promote the benefits of consistent local ordinances in neighboring areas.

(d) Encourage the capture and retention of stormwater onsite to improve water use efficiency or water quality.

(e) Include provisions for the use of automatic irrigation systems and irrigation schedules based on climatic conditions, specific terrains and soil types, and other environmental conditions. The model ordinance shall include references to local, state, and federal laws and regulations regarding standards for water-conserving irrigation equipment. The model ordinance may include climate information for irrigation scheduling based on the California Irrigation Management Information System.

(f) Include provisions for onsite soil assessment and soil management plans that include grading and drainage to promote healthy plant growth and to prevent excessive erosion and runoff, and the use of mulches in shrub areas, garden beds, and landscaped areas where appropriate.

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(g) Promote the use of recycled water consistent with Article 4 (commencing with Section 13520) of Chapter 7 of Division 7 of the Water Code.

(h) Seek to educate water users on the efficient use of water and the benefits of doing so.

(i) Address regional differences, including fire prevention needs.

(j) Exempt landscaping that is part of a registered historical site.

(k) Encourage the use of economic incentives to promote the efficient use of water.

(l) Include provisions for landscape maintenance practices that foster long-term landscape water conservation. Landscape maintenance practices may include, but are not limited to, performing routine irrigation system repair and adjustments, conducting water audits, and prescribing the amount of water applied per landscaped acre.

(m) Include provisions to minimize landscape irrigation overspray and runoff.

65597. Not later than January 31, 2010, each local agency shall notify the department as to whether the local agency is subject to the department's updated model ordinance adopted pursuant to Section 65595, and if not, shall submit to the department a copy of the water efficient landscape ordinance adopted by the local agency, and a copy of the local agency's findings and evidence in the record that its water efficient landscape ordinance is at least as effective in conserving water as the department's updated model ordinance. Not later than January 31, 2011, the department shall, to the extent funds are appropriated, prepare and submit a report to the Legislature summarizing the status of water efficient landscape ordinances adopted by local agencies.

65598. Any model ordinance adopted pursuant to this article shall exempt cemeteries from all provisions of the ordinance except those set forth in subdivisions (h), (k), and (l) of Section 65596. In adopting language specific to cemeteries, the department shall recognize the special landscape management needs of cemeteries.

65599. Any actions or proceedings to attach, review, set aside, void, or annul the act, decision, or findings of a local agency on the ground of noncompliance with this article shall be brought pursuant to Section 1085 of the Code of Civil Procedure.

SEC. 4. Section 25401.9 is added to the Public Resources Code, to read:

25401.9. (a) To the extent that funds are available, the commission, in consultation with the Department of Water Resources, shall adopt by regulation, after holding one or more public hearings, performance standards and labeling requirements for landscape irrigation equipment, including, but not limited to, irrigation controllers, moisture sensors, emission devices, and valves, for the purpose of reducing the wasteful, uneconomic, inefficient, or unnecessary consumption of energy or water.

(b) For the purposes of complying with subdivision (a), the commission shall do all of the following:

(1) Adopt performance standards and labeling requirements for landscape irrigation controllers and moisture sensors on or before January 1, 2010.

(2) Consider the Irrigation Association's Smart Water Application Technology Program testing protocols when adopting performance standards for landscape irrigation equipment, including, but not limited to, irrigation controllers, moisture sensors, emission devices, and valves.

(3) Prepare and submit a report to the Legislature, on or before January 1, 2010, that sets forth on a proposed schedule for adopting performance standards and labeling requirements for emission devices and valves.

(c) On and after January 1, 2012, an irrigation controller or moisture sensor for landscape irrigation uses may not be sold or installed in the state unless the controller or sensor meets the performance standards and labeling requirements established pursuant to this section.

SEC. 5. Article 4.5 (commencing with Section 535) is added to Chapter 8 of Division 1 of the Water Code, to read:

Article 4.5. Irrigated Landscape

535. (a) A water purveyor shall require as a condition of new retail water service on and after January 1, 2008, the installation of separate water meters to measure the volume of water used exclusively for landscape purposes.

(b) Subdivision (a) does not apply to either of the following:

(1) Single-family residential connections.

(2) Connections used to supply water for the commercial production of agricultural crops or livestock.

(c) Subdivision (a) applies only to a service connection for which both of the following apply:

(1) The connection serves property with more than 5,000 square feet of irrigated landscape.

(2) The connection is supplied by a water purveyor that serves 15 or more service connections.

(d) For the purposes of this section, "new retail water service" means the installation of a new water meter where water service has not been previously provided, and does not include applications for new water service submitted before January 1, 2007.

SEC. 6. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

Assembly Bill No. 2515

CHAPTER 573

An act to add Section 2714.5 to the Public Utilities Code, relating to water conservation.

[Approved by Governor September 28, 2006. Filed with
Secretary of State September 28, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2515, Ruskin. Water conservation: report.

Existing law authorizes the Public Utilities Commission (PUC) to regulate public utilities, including water corporations.

This bill would require the PUC to prepare and submit to the Legislature, by June 30, 2008, a report that describes the progress achieved toward implementing the policy objectives of the PUC's Water Action Plan, adopted December 15, 2005, and to include specified matter in the report.

The people of the State of California do enact as follows:

SECTION 1. Section 2714.5 is added to the Public Utilities Code, to read:

2714.5. The commission shall, by June 30, 2008, prepare and submit to the Legislature, a report that describes the progress achieved toward implementing the policy objectives of the commission's Water Action Plan, adopted December 15, 2005, which includes all of the following:

(a) The progress achieved toward development and implementation of a ratemaking mechanism and rate design that will encourage water conservation and efficient water use.

(b) The progress achieved toward development and implementation of rates that remove the financial disincentive for water corporations to conserve water that exists in the current rate structure, while preserving continued revenue stability for water corporations as new rate structures are implemented.

(c) The impacts of water conservation and efficiency programs on future water, energy, and wastewater treatment costs to customers of water corporations.